

## ACQUISITION ADVISORY PANEL

Meeting Minutes (Revised)

May 23, 2005

The Fritz G. Lanham Federal Building

Room 4A14H

Ft. Worth, TX

The Acquisition Advisory Panel (AAP) convened its sixth meeting on May 23, 2005 in Room 4A14H at the Fritz G. Lanham Federal Building, Ft. Worth, TX. Ms. Marcia Madsen, Chair of the AAP, opened the meeting at approximately 09:15 AM.

The Panel Chair welcomed everyone to the sixth AAP meeting and noted that convening a public meeting in Texas represented Panel efforts to obtain Government and industry input from outside the Beltway. Ms. Madsen provided an overview of the Panel's charter and its working groups. She introduced the following Panel members who were in attendance and noted that due to flight delays, Ms. Deidre A. Lee would be arriving late.

Mr. Louis M. Addeo  
Dr. Allan V. Burman  
Mr. Marshall J. Doke, Jr.  
Mr. Jonathan Lewis Etherton  
Mr. Joshua I. Schwartz  
Mr. Roger D. Waldron

Ms. Laura Auletta, Designated Federal Official (DFO) for the Panel

The following Panel members were not in attendance:

Mr. James A. "Ty" Hughes  
Mr. David Drabkin  
Mr. Carl DeMaio  
Mr. Frank I. Anderson, Jr.  
Mr. Thomas Luedtke  
Ms. Melanie R. Sabelhaus

The guest speakers and their affiliation were as follows:

Ms. Vickie Wessel	Spirit Electronics	(Attachment 1)
Mr. William Correa	Paragon Project Resources	
Mr. Richard Bloomfield	CECO Industrial Sales	(Attachment 2)
Col. Athena Jones	AAFES - Charts	(Attachment 3a)
	AAFES – Public Statement	(Attachment 3b)
Ms. Julianne Moore	Contract Consultants, Inc.	(Attachment 4)
Ms. Della Williams	Williams-Pyro, Inc.	(Attachment 5)
Mr. Paul Stone	Small Business Administration	(Attachment 6)

Ms. Lois Melbourne  
Ms. Sarah Corley

Aquire, Inc.  
Ft. Hood Contracting Command

(Attachment 7)

Panel Chair Marcia Madsen introduced the first guest speaker, Ms. Vickie Wessel, President and CEO of Spirit Electronics, Scottsdale, AZ, who made her presentation via telephone conference call. Ms. Wessel thanked the Panel for the invitation to speak at this meeting, and apologized for not being able to attend in person. She welcomed comments and questions throughout her presentation. Ms. Wessel provided general information about her company including that it is a small disadvantaged, woman-owned, Native American-owned business. She explained that her company is SBA, ISO9001 and AS9100 certified, and also a participant in DoD's Mentor-Protégé program. Ms. Wessel expressed some concerns about the length of time it takes to complete SBA's 3-year certification of each small business, and indicated that the delay is probably due to insufficient staffing at SBA. Ms. Wessel said that she believes there is current legislation in place to change the personal net worth limitation of \$750,000, and that the limitation should be adjusted as a result of increases to inflation and the cost of living. She said the business owners personally guarantee all loans for business expansion which puts a limitation on available capital, and, as a result, severely impacts small business growth. Ms. Wessel also discussed equity and payment issues with prime contractors. Specifically, small businesses frequently are not paid by primes in a timely manner, yet they are required to pay suppliers within 30 days. This creates a cash flow problem which limits small businesses' ability to apply capital to growth. Ms. Wessel entertained questions from the Panel members.

Panel Member Marshall Doke asked Ms. Wessel if she had appealed to higher SBA authority for help in resolving her SBA recertification issue. Ms. Wessel responded that she had attempted to do this, but with no results, and eventually ended up changing her estate planning documents. She said that it had been a frustrating experience, and that she did make calls to SBA Administrator Barreto's office.

Panel Member Allan Burman stated that many agencies have ombudsman to assist with these types of issues. Ms. Wessel thanked Dr. Burman for the useful information.

Panel Member Jonathan Etherton asked Ms. Wessel for her thoughts on the personal net worth limit of \$750,000 relative to business size. Ms. Wessel explained that capital equipment is very expensive and \$750,000 in 1988 went a lot further than today. She added that it depends on the type of business and capital equipment that each business has. Ms. Wessel stated that she is adamantly opposed to leaving that decision in SBA's hands and recommended industry studies be conducted to determine those business classifications. She believes that the \$750,000 personal net worth limit should be adjusted upwards for inflation and cost-of-living increases.

Panel Chair Marcia Madsen asked Ms. Wessel about ultimate end users of her products. Ms. Wessel replied that the ultimate end users are the various branches of the Armed Services, but her primary customers are prime contractors, such as Raytheon, Lockheed Martin and Boeing. Ms. Madsen thanked Ms. Wessel for taking time to speak to the

SARA (Services Acquisition Reform Act) Panel. Ms. Wessel offered to provide additional information to working groups as needed.

Panel Chair Marcia Madsen introduced the next speaker, Mr. William Correa, CEO, Paragon Project Resources, Irving, TX. Mr. Correa thanked the Panel for the invitation and encouraged comments or questions throughout his presentation. Mr. Correa provided background on his company including that Paragon provides program management and construction management services to clients with large construction projects and programs. He said Paragon has been certified as an 8(a) firm since 1996. Mr. Correa's four areas of concern for small businesses include dilution of the 8(a) program, inequity, response and support, and product procurement. He believes the bundling of procurements and use of indefinite delivery/indefinite quantity (IDIQ) contracts are diluting the 8(a) program because of the length of the contracts and competition with large firms. Mr. Correa expressed his belief that certification of entire Indian tribes has created an inequitable situation because the ability to sole source to Indian tribes is unlimited, which is counter to the 8(a) requirement that sole source procurements be under \$3M. Mr. Correa questioned whether awards to National Industries for the Severely Disabled are benefiting intended recipients, the severely disabled. In terms of personal net worth, Mr. Correa said that in addition to an upper threshold of \$750,000, there is a lower threshold of \$250,000 for 8(a) firms for entry into the program. Mr. Correa expressed his concern on recent budget and resource cutbacks at SBA. Specifically, the workload of the Business Opportunity Specialists has significantly increased, and he requested that the Panel pursue this matter. Mr. Correa said that he is concerned about the lack of restrictions on importation of products produced in China, and that this may put small businesses at risk of going out of business.

Panel Chair Marcia Madsen asked Mr. Correa if he has recommended solutions to the bundling and IDIQ issues he had raised. Mr. Correa replied that he has no problem using these vehicles for national security requirements, but that there needs to be a better definition or criterion for identifying projects that use these contract vehicles. He recommended that guidelines be developed that expand small businesses' ability to compete. Mr. Correa agreed with Ms. Madsen's summation that Government users need to assume some responsibility for helping identify requirements that are suitable for small business.

Panel Member Lou Addeo thanked Mr. Correa for his presentation. He asked Mr. Correa if he was able to quantify these impacts, pertaining to areas such as overhead, payment issues, certification challenges, etc. Mr. Correa replied that in terms of the impact to his own business, overhead is a significant issue. He added that he had been fortunate to have gained valuable experience working with very large construction firms prior to starting his business. As such he is also involved with mentoring other small business firms. Mr. Correa also discussed an example related to GSA Schedules and the amount of time involved for annual reviews and certification requirements. He said that most small firms do not have the staff necessary to apply towards these requirements. Additionally, small businesses have problems receiving payment on time. Mr. Correa noted that many smaller firms are undercapitalized, and as such, these delays in receivables create a huge problem.

Panel Member Lou Addeo followed up with a question on tribal certification inequity asking if this had had any specific quantifiable downside to his own business. Mr. Correa said that it had and provided specific examples related to target projects Paragon had pursued in the past.

Panel Member Allan Burman asked Mr. Correa for his views on the kind of competition that should be involved under the 8(a) program. Mr. Correa replied that the 8(a) program is a great tool for not only helping small businesses, but also for helping end users quickly bring in a contractor to assist with design and/or construction projects. He believes the program should not be competitive all the way through, but that there should be a dollar threshold. Mr. Correa said that while he has not performed research to determine if the \$3M threshold should be elevated, he asked the Panel to consider this issue.

Panel Member Marshall Doke asked if task orders should be competed under IDIQ contract vehicles. Mr. Correa stated that multiple award IDIQ contracts should be competed and that he is supportive of both procurement competitiveness and set-asides that are already in place for 8(a) firms. He added that one of the challenging issues for small business is that they do not possess the resources to satisfy all of the requirements on some efforts, so small businesses must partner with other firms in order to compete.

Panel Chair Marcia Madsen asked why Mr. Correa does not participate in the GSA Schedules program. Mr. Correa replied that architecture-engineering (AE) requirements are very difficult to price and that GSA requirements do not fit into his business plan. Ms. Madsen thanked Mr. Correa for his willingness to attend and answer questions from Panel members. The Chair called a ten-minute recess.

Upon reconvening, Ms. Madsen introduced the next presenter, Mr. Richard Bloomfield, President, CECO Industrial Sales, Fort Worth, TX. Ms. Madsen noted that the Panel had a copy of his prepared statement.

Mr. Bloomfield thanked Ms. Laura Auletta, Executive Director of the AAP, for inviting him to address the members of the Panel. He explained that CECO is a 34-year old firm whose primary business is as a warehousing distributor of maintenance, repair, operations and environmental products. He noted that CECO Sales Corporation is a Native American-owned small business and is certified as a HUBZone/8(a) firm, and that the firm is currently working to establish GSA Schedules for more of its products. Mr. Bloomfield said that establishing GSA Schedules has been very difficult - 95% of his business is derived from commercial accounts and only 5% from the Federal Government. He said CECO's first GSA contract was awarded last year with the outstanding effort of two GSA employees, Ms. Debbie Loftin and Mr. Barney McCollum.

Mr. Bloomfield explained that he wished to discuss bundling, mentoring, and GSA Schedules. He emphasized the importance and benefits of mentoring small firms to compete in the marketplace. Mr. Bloomfield explained that the procurement mentality for the last 20 years has been that big business can do big things and small business can do

small things. This, he stated, has limited smaller companies from competing. Mr. Bloomfield expressed his concern about the playing field not being level for small businesses and stressed the importance of purchasing managers developing alternative sources of supply for goods and services. Mr. Bloomfield recommended that top corporate management measure minority participation and direct achievement of minority business goals. He recommended that corporations establish a protective system of mentoring, monitoring and measuring progress toward CEO goals. These goals, he added, must be set sufficiently high to have significance. Mr. Bloomfield believes that in the long-run, corporate America and DoD contractors will reduce costs through a larger and more competitive supplier base of minority-owned companies.

In terms of GSA Schedules, Mr. Bloomfield explained that the original intent of the GSA Schedules program was to efficiently provide products required by the Federal Government to operate its day-to-day activities. This procurement tool, he stated, was not created to provide big business a method to exclude small, minority and women-owned businesses from competition. Mr. Bloomfield asked the Panel to restrict use of GSA Schedules to federal contracting where “brokering” is prohibited under the SBA 8(a) Program and the Code of Federal Regulations. He said that large business should not be allowed to take the Schedule over to other states for contracting opportunities. Mr. Bloomfield provided several examples including the Texas Multiple Award Schedule (TXMAS). Mr. Bloomfield opened up the floor to questions.

Panel Member Marshall Doke discussed state and local use of GSA Schedules, and said he was unsure of the extent to which the Panel could influence recommended changes at state and local levels. Mr. Bloomfield agreed, but reiterated that it was important to raise the issue because it impacts whether small businesses can remain in business. Mr. Bloomfield suggested that the Panel could address it at the federal level and work back through the state and local levels. Mr. Doke agreed with Mr. Bloomfield and indicated the Panel’s Small Business working group might address this issue.

Panel Member Roger Waldron asked Mr. Bloomfield to clarify how states are using the GSA Schedule model. Mr. Bloomfield replied that states are using the same discount structure as GSA Schedules and issuing their own MAS contract. He noted that the local, state and city organizations are not ordering off the federal contract (GSA), but ordering off their own state contract. Mr. Bloomfield said that the State program, for example, TXMAS, have a fee structure similar to GSA’s.

Panel Member Marshall Doke said that the law authorizes purchase directly from firms on the GSA scheduled contract, and that this solves the competition problem because the theory is that the competition occurred at the time the schedule was awarded. Mr. Bloomfield noted his concern with this arrangement because it has impacted competition with other HUBzone contractors.

Panel Member Allan Burman provided an example where California used the federal schedules and turned it into a California program with its own unique terms and conditions. Dr. Burman asked if this same kind of approach should be considered in Texas.



Mr. Bloomfield noted there is a similar program called the Western Statement Cooperative Agreement that uses competitively-bid agreements.

Panel Member Jonathan Etherton asked if Mr. Bloomfield was referring to the DoD Mentor-Protégé program. Mr. Bloomfield replied he had been referring to a north Texas Mentor-Protégé program where corporate America reaches out to certain small business vendors. He outlined benefits for the mentor, protégé and the customers.

Dr. Burman stated that there are two primary incentives for the mentor under DoD Mentor Protégé program - multiple small business subcontracting credits and reimbursement for the administrative cost of providing technical assistance. Dr. Burman asked what type of incentives the mentors provide in northern Texas. Mr. Bloomfield responded that mentors obtain good competitive suppliers who are trained to take care of mentors' issues, and he cited an example with Texas Instruments. He believes the north Texas program is responsible for the success his company is enjoying today because of mentoring provided by Texas Instruments since 1993.

Mr. Bloomfield briefly discussed the Indian Incentive Program and stated that it is very discriminatory in that it excludes approximately 13 million Indians from being part of that program. The program only includes Indians identified by the Bureau of Indian Affairs, which he estimated to be only about 2.4 million Indians in the world. Mr. Bloomfield added there is difficulty getting these Indians documented because of tribal law.

Panel Member Joshua Schwartz asked a question regarding Texas piggybacking on GSA Schedules, and expressed concern that the State of Texas should resolve this issue instead of the Federal Government. Mr. Bloomfield stated that the issue is also for Texas, but recommended that it also be worked from the federal side. Specifically, the issue should be taken to the U.S. Attorney's Office to determine if there has been anything done improperly. Mr. Bloomfield believes that if there was a federal ban on this process, then this type of contracting would cease in Texas. If this step does not work, he noted it should be addressed at the State level.

Panel Chair Marcia Madsen thanked Mr. Bloomfield for his participation and willingness to answer questions. She introduced the next speaker, Colonel Athena Jones from the Army and Air Force Exchange Service (AAFES). Ms. Madsen stated that Colonel Jones is General Counsel for AAFES and that she was accompanied by Mr. Mike Immeler, AAFES Principal Deputy General Counsel, and Colonel Peter Opheim, AAFES Director of Procurement. (See Attachment 3b for the full AAFES public statement). Colonel Jones thanked the Panel for the opportunity to present information about AAFES. She gave background on types of worldwide products and services that AAFES provides, indicating they have over 11.5 million military and civilian customers. Colonel Jones stated that AAFES is an independent Government corporation receiving non-appropriated funds-- not a federal or military agency. She provided an overview of laws and regulations that are not applicable to AAFES procurements such as the Competition in Contracting Act, Small Business Act, Economy Act and the Federal Acquisition Regulation (FAR). She stated they must comply with the Contract Disputes Act (CDA), Service Contract Act (SCA),

Buy American Act, pertinent DoD regulations and NAFI (Non-Appropriated Fund Instrumentality) procurement policies.

Colonel Jones highlighted a few of the legal challenges that they face with regard to prompt payment discounts, and the SCA's ability to use industry practices to motivate contractors to comply with shipping terms. She cited an example involving Prompt Payment Act requirements and stated that discounts are inconsistent with accepted industry practices. In the retail industry, she stated, payment evolves after goods are sold whereas prompt payment discounts start from the date of the invoice. Colonel Jones said that these issues impact federal commercial procurements and the Government's overall ability to purchase goods and services as efficiently as private industry. Colonel Jones discussed AAFES's Value Added Procurement (VAP) program for complicated or highly technical requirements. These contracts are awarded only to responsible offerors with the technical and financial capability to perform. In closing, Colonel Jones discussed NAFI's role in interagency purchasing and stated that increased flexibility is possible and desirable. She thanked the Panel members for the opportunity to present, and invited their questions.

Panel Member Marshall Doke thanked Colonel Jones for an excellent presentation. Colonel Jones agreed to furnish the Panel with the AAFES basic retail agreement in response to Mr. Doke's request.

Mr. Doke asked two questions on AAFES's best value process for janitorial services. Specifically, if the specification for cleanliness is increased, does AAFES terminate the company if it doesn't perform properly? Mr. Immler stated that AAFES does use the best value process and evaluates past performance criteria to find the best provider, not necessarily the lowest cost. In addition, does AAFES want a supplier who performs the best or one who complies with the contract? Mr. Doke added that if AAFES wants the best performer then they should consider that under their responsibility determination. Mr. Immler stated they want the best performer and agreed with Mr. Doke's suggestion.

Panel Member Allan Burman asked if the issues raised in the SCA are new or if these are ones which have been discussed for a long time. Colonel Jones stated these are not new issues, and that AAFES is using this opportunity to raise these issues with the SARA Panel. Dr. Burman asked about the kinds of feedback AAFES is receiving from the Department of Labor (DoL) on the pay and benefits exception provided to the Parks Service concessionaire. Mr. Immler stated that AAFES has had some success convincing the DoL to use more comparable wage rates when setting the rate applicable in the contracts. The ideal solution from AAFES' perspective would be for DoL to give the military exchanges the same exception granted to the National Parks Service concessionaires. According to DoL regulation, the SCA is not applicable to Parks Service concessionaires because they face competition from businesses outside the national parks. The military resale community, by and large, faces the same sort of competitions from off-installation retailers and other businesses.

Panel Member Joshua Schwartz asked about statutes authorizing AAFES and if there should be another vehicle for interagency contracting. Mr. Immler discussed two statutes,

10 U.S.C. 2424 and 10 U.S.C. 2492, and indicated that the essence of these two statutes goes back to a 1979 Government Accountability Office (GAO) Comptroller General decision. He stated that the most recent statute (10 U.S.C. 2492) was enacted in 1995 and AAFES has been trying to overcome the inertia of a 25-year old GAO decision. Mr. Immler did not believe another statute was needed, but noted that the NAFI legal community is trying to educate the workforce on the appropriated funds side of the House.

Panel Member Allan Burman asked if the two aforementioned statutes have been fully utilized. Mr. Immler replied there has been limited application where the statutes have been used. He explained that 10 U.S.C. 2424 has been used more because of the situation in Operation Enduring Freedom. Mr. Immler stated that U.S.C 2492 is primarily used as authority for construction contracts. He explained that when both appropriated funds and non-appropriated funds are used in the same construction process, AAFES enters into a Memorandum of Agreement with the military installations. He added that AAFES uses the 2492 statute as authority.

Panel Member Jonathan Etherton asked Mr. Immler to provide the Panel a sense of the volume or the scope in terms of dollar value for use of both statutes. Mr. Immler estimated the value for 2424 at less than \$5M out of \$8B revenue per year. For 2492, Mr. Immler estimated the value at approximately \$10M.

Mr. Etherton then asked how the Economy Act applies and how AAFES, a non-appropriated fund activity, works with appropriated funds. Mr. Etherton asked if this is an issue that AAFES would like to see clarified in a Defense Federal Acquisition Regulation Supplement (DFARS) provision. Mr. Immler replied that AAFES would like to see a DFARS clarification. Mr. Immler stated that the Economy Act does not apply to AAFES and noted that he had used the term NAFI Economy Act very loosely because there are issues that need to be resolved with the use of appropriated funds through a NAFI like AAFES.

In response to Panel Member Marshall Duke's request, Colonel Jones said that AAFES would be willing to make a resource available to one of the Panel's working groups, if needed.

Since there were no additional questions, the Panel Chair Marcia Madsen thanked the AAFES presenters and recessed the AAP meeting for lunch.

Panel Chair Marcia Madsen called the meeting to order at 1:00 p.m. Ms. Madsen introduced the next presenter, Ms. Juliennne Moore, CEO, Contract Consultants, Inc. (CCI), Bedford, TX. In her prepared written statement, Ms. Moore thanked the Panel for the invitation and introduced the company President and her partner, Ms. Luella Kranz, and the firm's Director of Government Operations, Mr. Leighton Waters. Ms. Moore stated that CCI is a small 8(a), minority-owned, women-owned business. Ms. Moore noted that both she and Ms. Kranz have had long histories in Government contracting, including having been warranted contracting officers. Ms. Moore stated that their company currently has a GSA schedule contract for temporary and professional services and similar IDIQ



contracts with the Corps of Engineers, the Forest Service and the Veterans' Administration. Ms. Moore stated that CCI has no issues competing with large companies, but has experienced that some technical panels hesitate awarding to small business when there is a larger company with a recognized name also competing. She recommended that if a small business is part of a proposal at the subcontract level and the prime contractor wins the award, the small business contractor should be notified of the award, and the winning prime should be required to use the subcontractor identified in the proposal. Ms. Moore stated that most of their experience with the Government has been positive; however, like most small businesses, they continually struggle with cash flow issues, including issues associated with the Prompt Pay Act and fees paid to the bank and credit card companies. Ms. Moore stated that getting paid on time and the associated apparent lack of interest by Government agencies are significant concerns. She said that when a contracting officer delays key milestone dates, neither party can afford the cost of having to pay experts to wait for contract award. In closing, Ms. Moore stated that overall, her firm's experience with the Government has been wonderful, and she recognizes the Government's heavy workload. Ms. Moore said they would appreciate contracting officers and technical panels being trained to look closely at small businesses. Ms. Moore invited questions from the Panel members.

Panel Chair Marcia Madsen thanked Ms. Moore for her excellent points and noted that she gave the Panel a good reminder that commercial practices involve good business practices including preparing paperwork and paying bills in a timely manner.

Panel Member Marshall Doke asked what course of action Ms. Moore has taken to rectify the Government's non-payment of invoices. Ms. Moore stated that sometimes the payment office indicates the invoice is invalid, and many times it is simply a situation where the Government has not received the invoice. Mr. Doke asked if her firm resends the invoice with a returned receipt requested. Ms. Moore said they normally keep sending a copy until it is received. Mr. Doke suggested that a remedy exists called the Contract Disputes Act where a company may file a claim for interest when an invoice is not acted upon by the Government in a timely manner. Ms. Moore stated that she is aware of the remedy, but her company is dependent on the Government's good will and CCI wants to continue to receive repeat business with these agencies. Ms. Moore believes that in one case, their contract was not renewed because of too many problems trying to get CCI paid.

Panel Member Jonathan Etherton asked about electronic invoicing procedures to improve the payment process. Ms. Moore replied that they have done some electronic invoicing with GSA and it is working well. She added that a problem exists with connecting accounting systems with different types of agency systems. Ms. Moore noted that it is very time consuming because when connecting to some agency systems, such as DoD's, her firm's accounting personnel must enter all data every single time information is input into the system. Ms. Moore stated that any savings generated by using the software to create the invoices automatically is usually negated. Ms. Moore also noted that another issue is the inexperience level of the Government's new contracts personnel. She provided an example where her company had lost an award because the successful offeror's billing rate was less than the pay rate that is legally required. Ms. Moore explained that it is not

that contracting officers are deliberately doing this; it is just that they do not know the provisions of the SCA.

The Panel Chair Marcia Madsen asked if CCI has commercial contracts. Ms. Moore replied that they do, and provided examples. Ms. Madsen asked if CCI's Government contracts are primarily time & materials (T&M). Ms. Moore replied that they are, and noted staffing services usually are T&M. She explained that one of the issues with service contracts is that small businesses cannot afford to be subcontractors because of payment delays by the prime. She noted that her firm has learned its lesson and has hired an individual to study where the company is making and losing money. Ms. Moore stated that even on an 8(a) set aside, the Government negotiates lower pricing such that CCI is just meeting expenses.

Panel Chair Marcia Madsen thanked Ms. Moore for speaking to the Panel. Ms. Madsen then introduced the next speaker, Ms. Della Williams from Williams-Pyro, Ft. Worth, TX. Mr. Doke asked to make a statement for the record regarding a conflict-of-interest statute that applies to this Panel. Mr. Doke said that he did not believe the day's meeting is covered by 18 U.S.C. 208. He stated that neither he, nor his firm or his family has any financial interest with Williams-Pyro, but he had decided to recuse himself from any participation. Mr. Doke stated he would listen to the presentation from the back of the room.

Ms. Williams thanked the Panel for the opportunity to speak and share her experience dealing with the Federal Government. Ms. Williams stated that her presentation stems from the fact that she believes the Government is neglecting small business more and more every year. She said that only three-tenths of one percent of DoD's total Research and Development (R&D) budget is contracted to small businesses like hers. In fact, she stated, the top 100 DoD contractors are very large companies that receive 88.9% of DoD's R&D funding. Ms. Williams explained that one of the factors that contribute to the dwindling number of small business contractors is the difficulty that small businesses often experience working with the Government. Ms. Williams stated it is this difficulty on which her presentation to the Panel was focused. Ms. Williams stated she and her late husband founded Williams-Pyro in 1963. They are a women-owned firm that conducts business with the military, geophysical and retail markets. It has several governmentwide contracts with DoD, primarily for weapon systems test equipment. Ms. Williams explained that this equates to 40% of their business and noted they have additional business in the retail market and as a government subcontractor. Ms. Williams commented on two Government systems that she considered to be working well: the Automated Best Value System (ABVS) and Wide Area Work Flow (WAWF). She said that not all of her experiences working with the Government have been positive, especially in terms of meeting the 5% woman-owned small business goal. Ms. Williams provided an overview of some of the small business challenges including waiting for payment and its impact on the company's cash flow. Ms. Williams also explained challenges related to delays in getting part numbers approved and obtaining the latest drawing numbers. Ms. Williams concluded her presentation with recommendations to streamline the procurement and payment processes, including allowing companies to be approved on blocks of part

numbers, obtaining the latest version of drawings and signing invoices immediately upon receipt. Ms. Williams opened the floor for questions.

Panel Member Allan Burman thanked Ms. Williams for her presentation and noted that similar concerns regarding the Prompt Payment Act had been heard from other small businesses. Dr. Burman noted that the Panel needs to carefully look at these issues. Ms. Williams thanked Dr. Burman for his support.

Panel Member Jonathan Etherton asked Ms. Williams about her Small Business Innovation Research (SBIR) experience as it pertains to funding. Ms. Williams commented that they are working with the Navy and Capitol Hill on obtaining funding for their Phase III SBIRs.

Panel Member Deidre Lee asked Ms. William to explain the 40% of her business that was deemed “Other” in her charts. Ms. Williams explained that Williams-Pyro manufactures a fire extinguisher for the geophysical industry. She said that there are no problems with retail payments as the company normally gets paid within 30 days. With SBIR contracts, payment can take four months. Ms. Lee asked if the company receives interest and Ms. Williams replied no, because the Government characterizes the payments as finance payments.

Panel Chair Marcia Madsen thanked Ms. Williams for her presentation and introduced the next speaker, Mr. Paul Stone. Ms. Madsen stated that Mr. Stone is the Procurement Center Representative (PCR), SBA, Ft. Worth, TX. Mr. Stone thanked Ms. Madsen and the Panel for the invitation to speak. Mr. Stone provided a short overview of his background and noted that as the PCR he is involved in matters pertaining to procurement policy for six agencies in the north Texas area. He stated that the majority of his responsibility is reviewing procurement actions for construction requirements and noted that as such, he may be unable to offer comments that address many of the issues that the Panel is reviewing. Mr. Stone explained that as the PCR, he had not heard of too many challenges from the small business community on navigating the federal procurement system. He noted that the DoD’s Procurement Technical Assistance Centers (PTACs) and SBA’s Small Business Development Centers (SBDCs) provide assistance and education on the procurement process to small businesses. Mr. Stone stated that one of the biggest complaints he hears is in regard to the Federal Supply Schedule (FSS) and its limited set-asides. He explained that small businesses are now in competition with large business for work that was previously made available through small business set-asides. Mr. Stone’s recommended that GSA develop similar vehicles to the 8(a) STARS (Streamlined Technology Acquisition Resources for Services) vehicle for small business set-asides. Mr. Stone said there is some difficulty with IDIQ contracts, specifically the inability of unsuccessful offerors to re-compete for a period of three to twenty years. Mr. Stone stated the Small Business Competitive Demonstration Program also has challenges, and noted that it appears to be limited to those procurements that large business is not interested in due to value or location. He recommended that the SBA continue to educate procurement professionals about this program and its set-aside requirements. Mr. Stone stated that PCRs are concerned about language contained in FAR 19.402 (c) (i). This language, he explained, does not afford the PCR the opportunity to make recommendations on set-

asides in the procurement process. Mr. Stone said that with respect to the use of cascading procurements, his experience with the Corps of Engineers has been very positive. He said that part of this success was due to locally developed procedures which identified when cascading is appropriate. Mr. Stone added that the PCR does not always receive feedback on issues related to fair opportunity for task and delivery orders under multiple award contracts. However, he noted, the SBA PCRs have recently requested that their agencies allow them to comment on procurement opportunities that may be acquired through use of other agencies' Governmentwide Acquisition Contracts (GWACs), Blanket Purchase Agreements (BPAs), or Federal Supply Schedules. Hopefully, he added, the review of these actions will result in additional opportunities for small business. Mr. Stone said he appreciated the invitation to appear before the Panel and asked if there were any questions.

Panel Member Roger Waldron asked Mr. Stone to explain in more detail why the cascading procurement approach is successful. Mr. Stone provided an overview of the term and explained that it saves the contracting offices time because only a single solicitation is issued. In addition, the price remains competitive because it provides an opportunity for all businesses, including large and 8(a) firms, to compete. He noted that it is also helps contracting officers in the last quarter of the fiscal year because they do not have to worry about expiring funds. Contracting officers do not have to go back and re-solicit because they have all the offerors they can expect at one time without doing a set-aside contract. If all else fails, he stated, the contracting offices must reissue the solicitation as full and open.

In response to Panel Member Marshall Doke's request, Mr. Stone said that he would provide an example of a cascading solicitation to the Panel DFO for Panel review.

Panel Member Louis Addeo asked if there was a liaison function or an ombudsman function within the SBA that is specifically geared towards training for the Government contracting personnel. Mr. Stone stated that the SBA relies on the PCRs to serve as trainers on small business issues to agencies over which they have cognizance. Mr. Stone indicated that he works with GSA, providing training on at least an annual basis. He clarified that the ombudsman works with firms directly on regulatory problems they may encounter. He further explained that the Office of Small Business Utilization specialists are actually on the front line working directly with contracting officers and providing training as needed. The Chair thanked Mr. Stone for his time and for the information he provided the Panel.

The Chair introduced Ms. Lois Melbourne, President and Co-Founder, Aquire, Inc., Irving, TX. Ms. Melbourne thanked the Panel for the opportunity to speak with them. Ms. Melbourne provided a short overview of her company, noting that Aquire Inc. is a small woman-owned business previously named TimeVision. She stated that about 10% of its business last year was with the Federal Government and hoped to boost that up to 25% this year. Ms. Melbourne explained that Aquire is a software company which provides unified workforce intelligence services. One of Aquire's largest challenges is related to educating Government employees involved early in the procurement process. Specifically, there are Government internal champions trying to solve a problem for their agencies; however, they

do not understand how to purchase the product or service. Ms. Melbourne noted that this “proof of concept” phase is very expensive for her company because it must meet the agency’s technology and specification requirements. A significant issue is how to get the requirement funded in the agency’s future budget. Time delays in the budget process are a concern for both parties because the technology changes significantly over time. Ms. Melbourne provided two examples, one from the Air Force and one from Veterans’ Affairs. Ms. Melbourne also expressed her concern about how contracts are written and the reward system in place. She suggested that contracts should be written based on how quickly “X” can be accomplished versus how many hours are actually going to be worked to accomplish “X”. Ms. Melbourne added that it is difficult to see abuse inside of the Government because the reward system used for contractor support may be incorrectly perceived. Ms. Melbourne discussed the single source initiative tool. She does not believe contracting officers are aware of the single source initiative tool and its benefits; specifically, the Request for Proposal (RFP) process does not need to be used if the company is the only provider. Ms. Melbourne entertained questions from the Panel.

Panel Chair Marcia Madsen asked if Aquire sells its product commercially - Ms. Melbourne stated that they do and provided examples. In response from a follow-up question, Ms. Melbourne explained that Aquire began selling to the Internal Revenue Service (IRS) in 1992. Ms. Madsen asked about private versus public relative revenue. Ms. Melbourne replied that currently only 10% is from the Government and provided some contracts with specific agencies.

Panel Member Marshall Doke asked if her company competes against large businesses in competitive solicitations. Ms. Melbourne stated that they do not and explained the company tries to complement offerings. She provided an example where Aquire is partnering with SAP, Inc. on its large human resource systems. Panel Chair Marcia Madsen asked Ms. Melbourne if she was willing to talk to the Commercial Practices working group and she responded affirmatively. Ms. Madsen thanked Ms. Melbourne for her remarks.

Ms. Madsen introduced the next speaker, Ms. Sarah Corley, Deputy Commander of Contracting, Ft. Hood, TX Contracting Command. Ms. Corley thanked the Panel for the invitation and provided a brief overview of Ft. Hood. She explained that because of its critical mission, the Command must have flexible contracting tools to assist them in obtaining products and services quickly. Ms. Corley discussed the use of GSA Schedules and some of the challenges involved with competing statutes. Ms. Corley noted the importance of doing the right thing and finding a middle ground. She provided examples using small disadvantaged businesses and NISH [(National Industries for the Severely Handicapped)]. Ms. Corley stated that in terms of IDIQ contracts, her organization could not survive without them and they strive for maximum small business participation. Ms. Corley added her concern regarding contract administration service fees, and emphasized that Commanders’ need to know and understand what they are paying for. She said another challenge is that when the contracting office is geographically estranged from the people on the ground performing the contract administration, the competence of the Contracting Officer Representatives (CORs) and Quality Assurance Representatives



(QARs) is very important. Ms. Corley discussed commerciality and pricing data issues, specifically, that the process for making accurate adjustments for out-year wage determinations can be difficult and unfair. She added that the situation is also impacted by CLIN (Contract Line Item Number) structure. Ms. Corley briefly discussed some of the Army Contracting Agency's solutions to providing quick and flexible contracting, including the Aviation Joint Administrative Management Support Services (AVJAMSS) and CONUS Support Base Service contracts.

Panel Member Deidre Lee asked if these contracts were single or multiple award vehicles. Ms. Corley stated that they were multiple award contracts (MACs).

Panel Member Roger Waldron asked how many contractors there are on the multiple award contracts. Ms. Corley replied that normally there are five to seven awardees on the MACs, and provided specific examples.

Ms. Lee asked specifics regarding a current protest. Ms. Corley stated it was being protested by companies who were not awardees, but noted she did not have the specifics as it is being worked on at their Army Contracting Agency's Center in Atlanta. Ms. Corley briefly reviewed some of the metrics in place to monitor contracts at various levels, including task, contract and program management. She discussed AVJAMSS, and noted that it offers activities the opportunity to buy only what they want when they need it. She added that it also provides for OCONUS (Outside the Continental United States) support which is often a very big consideration. Ms. Corley said that market research indicated there were no small businesses suitable to be primes on this program, but stated that they are interested in the subcontracting opportunities. She explained that an industry day was held and small businesses were invited to attend. Ms. Corley added that, in addition, their AVJAMSS team continues to attend several conferences to market the concept. In closing, Ms. Corley stated she very much appreciated the work that the Panel has done, and reiterated that policy changes should focus on speed, flexibility and quality. She emphasized the importance of stewardship of resources, and noted the challenges of recruiting young talent and the impact of the high number of retirement-eligible personnel.

Panel Member Jonathan Etherton asked what other agencies were using their AVJAMSS contract and how were they soliciting interest? Ms. Corley stated that only six task orders have been issued to date and issued to DoD customers. She said that civilian agencies are attending the aviation conferences and her hope is that this will result in additional interest in the vehicle.

Panel Chair Marcia Madsen asked if the Army would be willing to speak at a Washington D.C. Panel meeting in June. Ms. Corley replied that they would, and thanked the Chair for the opportunity.

Panel Chair stated that time on the agenda had been allotted to hear public comments. She introduced Mr. Clifton E. Miller, the Managing Principal, Cemetrics, Inc. and Board Member of the Dallas/Ft. Worth Minority Business Development Council. Mr. Miller thanked the Panel for the opportunity to speak. Mr. Miller stated that the federal

procurement process must continue to evolve towards a more strategic sourcing, supply chain, management-based approach to obtain needed efficiencies. He stated that federal contracting employees want to do a good job for all of the suppliers, but their numbers are limited and challenged. Mr. Miller stated that a policy discussion in the absence of any budget discussion would limit what the Panel can achieve. He said that from a high advocacy level, he urged the Panel to view this through a supply chain, management perspective, and stated that, collectively, all parties would have to be educated in the process. Mr. Miller asked the Panel to consider the importance of race conscious policies and to help minority-owned businesses fight for the budget.

Panel Chair Marcia Madsen asked Mr. Miller if he had any other suggestions for the Panel other than changing the budget process or influencing resource allocations. Mr. Miller touted the importance of collaboration, specifically with the advocacy network which already exists within the infrastructures in Government, industry and professional associations.

Panel Member Marshall Doke asked for a list of these organizations and specifics on how to involve these groups. Mr. Miller stated that his association has developed a model and a list of various minority business associations that he offered to share with the Panel.

Panel Chair Marcia Madsen introduced the last speaker, Mr. Willie Heath. Mr. Heath stated he is the Regional Director, Office of Small Business Utilization, for General Services Administration (GSA) in Ft Worth, TX. Mr. Heath discussed two different Mentor Protégé Programs, one with SBA and the other with DoD. He noted the benefits of the programs and reiterated that it is important for both large and small companies to be aware of these two Mentor Protégé programs. Mr. Heath also discussed cascading procurement, and reiterated some of the benefits Mr. Stone had discussed earlier. Mr. Heath addressed invoicing and the importance of understanding the process, specifically getting a receiving report to support that the item or service has been accepted by the Government. He noted that overall, the Government has a good system in place, but much of the concern involves education and training. Mr. Heath added that SBA assists in these and other areas related to business lines and contract vehicles. Mr. Heath also offered clarification on a previous speaker's reference to TXMAS; that is, that TXMAS is not a GSA vehicle, but rather one used in the State of Texas.

Panel Chair Marcia Madsen thanked Mr. Heath for taking the time to speak to the Panel. She concluded her remarks by thanking all the presenters for their time, and stated that many of the presenters would be hearing from the various working groups. The Chair thanked the Panel members and staff for their attendance and concluded that there had been an excellent exchange of information at the meeting.

## ADJOURNMENT

The DFO adjourned the sixth Acquisition Advisory Panel meeting at approximately 3:25 PM.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

*Marcia G. Madsen*      *9/1/05*      *(revisions to minutes signed 8/21/05)*  
Ms. Marcia G. Madsen  
Chair  
Acquisition Advisory Panel

*[Note: This is a revised version of the original minutes dated 8/21/05. This revision was done to make editorial changes for clarity. Original minutes available upon request].*